

Appl. No. 10/724,948

Docket No. GP-302434/QM2-0079

REMARKS / ARGUMENTS**Status of Claims**

Claims 1-21 are pending in the application and stand rejected. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claim. Applicant has canceled Claim 20, amended Claims 1, 14 and 18, and added new Claim 22, leaving Claims 1-19 and 21-22 for consideration by the Examiner.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claims 1, 2, 7-14, 16, 17, 19 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Bennett (U.S. Patent No. 3,781,513, hereinafter Bennett).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

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Applicant has canceled Claim 20 and has amended independent Claims 1 and 14 to incorporate limitations therefrom.

In view of the Examiner's comments indicating that the limitations of Claim 20 are allowable, Applicant submits that Claims 1 and 14 as amended are now allowable, and respectfully requests notice thereof.

More specifically, Applicant submits that Bennett lacks anticipatory disclosure of at least one of the one more gaps having a gap dimension equal to or greater than about 0.5 millimeters and equal to or less than about 2 millimeters, and therefore cannot be anticipatory.

Dependent claims inherit all of the limitations of the parent claim.

In view of the foregoing clarifying remarks, Applicant submits that Bennett does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) have been traversed, and requests that the Examiner reconsider and withdraw these rejections.

Rejections Under 35 U.S.C. §103(a)

Claims 3-6, 15 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bennett.

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References *fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs*. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Applicant has amended independent Claim 18 to now recite limitations similar to those of amended Claims 1 and 14.

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Dependent claims inherit all of the limitations of the respective parent claim.

In view of the remarks set forth above regarding the allowability of independent Claims 1 and 14, Applicant submits that Claims 3-6 and 15 are allowable for at least the reason that they depend from an allowable claim, and that Claim 18 is allowable for at least the same reasons that Claims 1 and 14 are allowable.

In view of the foregoing, Applicant submits that Bennett fails to teach or suggest each and every element of the claimed invention and is therefore wholly inadequate in its teaching of the claimed invention as a whole, fails to motivate one skilled in the art to do what the patent Applicant has done, fails to recognize a problem recognized and solved only by the present invention, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

New Claim 22

Applicant has added new Claim 22 to capture previously disclosed but unclaimed subject matter. No new matter has been added as antecedent support may be found in the application as originally filed, such as at Paragraphs [0019] and [0021] for example. In view of Claim 22 being indirectly dependent from Claim 1, and in view of the remarks set forth above regarding the allowability of Claim 1, Applicant submits that Claim 22 is directed to allowable subject matter and respectfully requests notice thereof.

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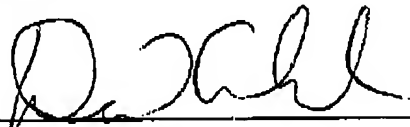
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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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